

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed April 5, 2006. At the time of the Final Office Action, Claims 1-3, 8, 10, 19-21, 26-29, and 31-32 were pending in this Application. Claims 4, 5, 9, 12, 13, 18, 22-25 and 30 were previously withdrawn due to an election/restriction requirement. Claims 6, 7, 11, and 14-17 were previously cancelled by Applicant without prejudice or disclaimer. Claims 1-3, 8, 10, 19-21, 26-28, 31, and 32 were rejected, and Claim 29 was objected to. Claims 1, 3, and 10 have been amended. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102

Claims 1, 2, 3, 8, 10, 19, 26-28, 31, and 32 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,371,450 issued to Kazuo Hiraoka ("Hiraoka"). Applicant respectfully traverses and submits the cited art does not teach all of the elements of the claimed embodiment of the invention.

Claims 1, 2, 3, 8, 10, 19, 26-28, 31, and 32 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,595,693 issued to Shigeru Fujita et al. ("Fujita et al."). Applicant respectfully traverses and submits the cited art does not teach all of the elements of the claimed embodiment of the invention.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the cited art as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Claims 1, 3, 10:

With respect to Hiraoka, the Examiner stated that the “minimum value selector” corrects the intermediate setpoint S_y to the second setpoint S_v . Applicant respectfully disagrees. However, to further prosecution, Applicant amended independent claims 1, 3, and 10 to specifically state that the second variable is subtracted from the first intermediate setpoint.

With respect to Fujita, the system disclosed does not comprise a machine control unit that receives two setpoints and generates a machine control parameter. Fujita discloses a different approach. According to Fujita, an injection speed is calculated in memory unit 42 from the variable provided by the distance sensor 36 and forwarded to injection speed calculation unit 38. Four comparators are provided that compare different calculated values with actual measured values (distance 16, pressure 34, pressure 18, pressure 28). If one of these comparators detects a difference it forwards it to injection speed calculating unit which then corrects the injection speed. However, this system does not include the limitations of the independent claims as amended.

Claim 31:

None of the prior art cited discloses the specific limitations included in claim 31. For example, Claim 31 comprises the limitation of selecting either the first intermediate setpoint or the second intermediate setpoint depending on the first variable. Thus, depending on whether the first variable crosses a threshold the first or second setpoint is selected. With respect to Hiraoka, the Examiner stated that the variation detecting unit 61 generates the first internal variable and that Hiraoka discloses a second unit for generating a second internal variable (velocity) from the third variable (time) and that a select unit 51 controlled by a threshold (velocity) derived from the first variable selects the first or second internal variable. Applicant respectfully disagrees. First, the variation detecting unit 61 has a controllable gain and, thus, can be switched from one gain to another gain. Thus, the output of gain control unit can take two different control gains. However, no selection of the first and second

internal variable takes place. Also note, that the selection unit 51 shown in Fig. 6 is not present in the embodiments of Figs. 7-9 of Hiraoka. The pressure limitation feedback control system 42 only comprises amplifier 26 whose gain is controlled. However, no selection of either the first intermediate setpoint or the second intermediate setpoint takes place. Thus, independent claim 31 is not anticipated by Hiraoka.

The same arguments with respect to Hiraoka also apply to Fujita. Fujita does not even disclose a selection unit capable of selecting one of two variables. Thus, Fujita also does not anticipate claim 31. The Examiner stated that Fig. 3 of Fujita discloses a select unit. Applicant respectfully disagrees. Fig. 3 of Fujita discloses merely a diagram showing injection speed and material pressure depending on the position of the injection plunger. Only one curve shown refers to the first intermediate setpoint using pressure/displacement profile. The second curve shown has a speed/displacement profile. No selection of any of these profiles is disclosed in the specification. At best different profiles sections are selected. However, these sections are within the same profile. Fujita does not disclose to switch between curve A and B. Therefore, Fujita does not anticipate claim 31.

Applicant respectfully submits that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserves the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and does not concede that the Examiner's proposed combinations are proper.

Allowable Subject Matter

Applicant appreciates Examiner's consideration and indication that Claim 29 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. However, Applicant believes that all pending claims are now allowable. Applicant would also like to bring to the Examiner's attention that on page 6 of the Office Action, it reads that Claims 20 and 21 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second

paragraph. Since there were no 35 U.S.C. 112, second paragraph rejections detailed in the Office Action, Applicant believes this paragraph is an administrative error and not applicable.

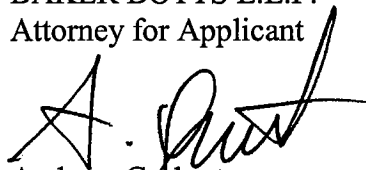
CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicant



Andreas Grubert
Limited Recognition No. L0225
Limited Recognition Under 37 C.F.R.
§11.9(b)

Date: May 23, 2006

SEND CORRESPONDENCE TO:

BAKER BOTTS L.L.P.

CUSTOMER ACCOUNT NO. **31625**

512.322.2545

512.322.8383 (fax)